

February 27th, 2002

United States Environmental Protection Agency
Enforcement and Compliance Docket and Information Center
(Mail Code 2201A)
Attn: Docket Number EC-2000-007
1200 Pennsylvania Avenue, NW
Washington, DC
20460

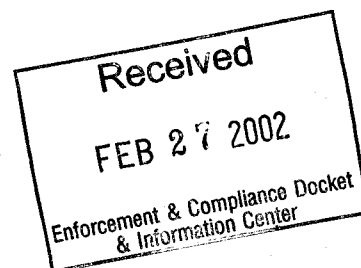
Ref.: 40 CFR Parts 3, 51, 60, 63, 70, 123, 142, 145, 162, 233, 257, 258, 271, 281, 403, 501,
745 and 763
Comments on Proposed Rule, Establishment of Electronic Reporting; Electronic
Records

Sir / Madam,

Please find, attached, Domtar's comments and concerns concerning this proposed rule. Feel free to contact us should any questions arise from this document.

Sincerely,

Roger H. Brear
Domtar Industries Inc
Senior Vice President – US Pulp and Paper Operations



SUMMARY

EPA's Cross-Media Electronic Reporting and Record-Keeping Rule (CROMERRR), published in the **Federal Register** on August 31, 2001, allows electronic reporting and electronic record keeping for 40 CFR regulated entities. Domtar recognizes that EPA has requested comments and is prepared to work with stakeholders to identify issues and provide a mechanism for the regulated community to express concerns, and has even participated in this exercise through the public meetings set up for that purpose. However, Domtar is concerned that actual costs of implementing the provisions of CROMERRR to the regulated community and to the State regulatory authorities have been underestimated and that the impact on business practices has not been realized by the Agency.

Key areas of concern include:

Voluntary nature of the Proposed Rule is not clearly articulated or understood;
 Financial burden on the regulated community appears to be vastly underestimated;
 Current State electronic reporting mechanisms would be non-compliant, forcing both States and the regulated community to revert to manual reporting and record keeping; and
 Existing business practices may be halted or negatively impacted

Therefore, Domtar respectfully urges EPA to conduct a more thorough cost/benefit analysis that includes input from impacted stakeholders prior to implementing CROMERRR. Domtar also urges EPA to withdraw, for the moment, the record keeping provisions from the Proposed Rule, as they are the main issue of contention for both the regulated community and the State regulatory authorities.

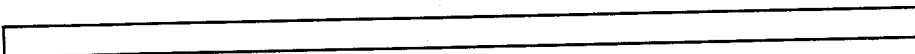
Domtar's issues and concerns are based on participation in EPA sponsored public meetings, review of the Proposed Rule and consultations with other affected Industry partners. If Domtar's conclusions are misdirected, Domtar kindly asks EPA to clarify the associated misunderstandings at its earliest convenience, so that we can develop acceptable plans to comply with CROMERRR.

DISCUSSION

Voluntary nature of CROMERRR

The Pulp and Paper Industry has been generating and maintaining a variety of electronic records in support of 40 CFR regulated programs for many years. Therefore, when EPA states, as in the Summary to the Proposed Rule, "Under today's proposal, electronic document submission or electronic record-keeping will be totally voluntary?," it is unclear what the intention is for the regulated community covered by predicate rules, which has been maintaining electronic records for years. To halt electronic record keeping would be commensurate with halting business; therefore, maintaining records electronically is no longer a voluntary decision.

In many public meetings held to discuss CROMERRR, including the one on November 9th, 2001 attended by Domtar representatives, EPA indicated that, "though CROMERRR is a voluntary program and [that] once a facility chooses to report electronically or maintain records electronically, it will be bound by the rule." The position that the regulated community will be



held to CROMERRR requirements for electronic records if, indeed, the regulated community maintains electronic records for EPA 40 CFR directed programs, seems to reinforce the belief that compliance with CROMERRR is not a voluntary act. Again, to discontinue practices that are standard in the regulated community would essentially place companies at a significant competitive disadvantage.

If, as it appears from the Proposed Rule, the regulated community will be held to CROMERRR requirements for electronic record keeping, then the analysis of financial burden to the regulated community is grossly underestimated. Data is being collected electronically throughout our manufacturing facilities and nearly every monitoring and control system would be affected by these requirements and would require either extensive modifications or outright replacement with something that, in many cases today, is not commercially available.

2) Financial burden on Domtar Industries Inc. and the regulated community

The CROMERRR economic analysis declares that the cost of complying with record keeping provisions would be about \$40,000 per facility. Domtar believes that, based on the available data from the implementation of such requirements with the FDA, this number is grossly understated and that it could reach into the millions of dollars for each regulated entity. This belief is based on the following:

Most regulated facilities have numerous electronic record keeping systems that generate, analyze, manage, or store data for EPA 40 CFR requirements; Based on the electronic records requirements for audit trails, date and time-stamping, and archiving of data stipulated by CROMERRR, every field equipment with data storage capabilities, including Continuous Emissions Monitoring Systems (CEMS), smart transmitter, etc. would have to be either modified or outright replaced. Assuming that the proper technology already exists, which is far from reality in most cases, some facilities could be faced with replacement costs in the millions of dollars.

The assumption by EPA that the capital cost is a one-time cost is considered by Domtar to be unrealistic since technology changes rapidly and the cost of upgrades must be factored into those capital costs. Upgrades themselves can prove costly, especially if they require new supporting operating systems or other capital expenditures.

EPA expects that only a limited number (less than 1%) of regulated companies will conduct electronic record keeping as specified under the proposed rule. Domtar believes that most facilities in the Pulp and Paper Industry, as well as other entities regulated by EPA 40 CFR programs, already have electronic record keeping systems. If this is true, the number of entities that will be subject to CROMERRR record keeping requirements is significantly larger than the estimated 428 facilities and could possibly impact a vast number of outside laboratories which the regulated community use in support of their reporting requirements.

EPA indicates that there would be no paperwork or other data item associated with initially installing an electronic record keeping system. Experience with EPA suggests that when criteria such as those included in CROMERRR §3.100 (a)(b)(c) for electronic records have been established, EPA has expectations around documentation that provides proof the criteria have been met. Concerning electronic computer systems, this documentation is generally validation documentation that assures the system operates as expected. If EPA expects the regulated

community to provide documentation that electronic records meet the criteria in §3.100 (a)(b)(c)³, Domtar contends that EPA has not accurately reflected costs associated with meeting compliance to CROMERRR.

Archiving electronic records for the retention times required by EPA would pose an additional financial burden on the regulated community. The costs and resources associated with long-term archival storage and retrieval of electronic data have yet to be clearly defined, although estimates of the cost are substantial. Issues include the cost of migrating data and the cost of maintaining obsolete hardware or software to ensure functional capability. The costs associated with long-term archival of electronic records must be evaluated prior to implementation of CROMERRR to provide a more accurate reflection of costs.

3) Impact on existing business practices

The Pulp and Paper Industry has maintained electronic records in support of EPA and State reporting requirements for many years. It is typical for the regulated community to generate, manipulate, analyze, and report data electronically. CROMERRR states, "EPA will only begin to allow electronic records to satisfy a specific EPA record keeping requirement once EPA has provided public notice stating that electronic records will satisfy the identified requirement."

Domtar believes that significant business disruption will occur if EPA requires the regulated community to discontinue long-standing practices of maintaining records electronically. As it stands now, all forms of electronic storage and retrieval of data would have to cease and a significant number of additional personnel would have to be hired to collect and maintain such data. Therefore, Domtar respectfully requests clarification of this requirement prior to implementation of CROMERRR.

CONCLUSION

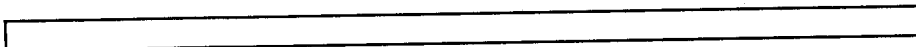
Based on its analysis of the available documentation, its participation in the public consultation process and various discussions with business partners and other organizations, Domtar believes that a serious review of all the provisions of the proposed rule for the Establishment of Electronic Reporting and Record keeping Rules (CROMERRR) is required. The main areas of review should concentrate on the following:

- A better articulation of the so-called voluntary nature of the Proposed Rule;
- A much better estimation of the financial burden of implementing CROMERRR on the regulated community;
- A clear and concise review of the impact of CROMERRR on current State electronic reporting mechanisms, which would become non-compliant once the Proposed Rule is in effect, forcing both States and the regulated community to revert to manual reporting and record keeping; and
- The serious negative impact CROMERRR will have on existing business practices should it comes into effect without a general review and overhaul.

ACKNOWLEDGEMENTS

Domtar would like to take this opportunity to thank the following organizations that have helped us in enhancing our understanding of the stipulations of CROMERRR and its impact on our ongoing operations:

- Dow Chemicals Inc
- Society of Quality Assurance (SQA)
- American Chemical Council (ACC)
- National Council on Air And Stream Improvement (NCASI)
- Georgia-Pacific Corporation
- American Forest and Paper Association (AF&PA)





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02/27/02 08:05 PM

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Martin (Domtar)" <Guy.Martin@domtar.com>
Subject: Comments on CROMERRR Proposed Rule - docket number
EC-2000-007

Please find, attached, Domtar Industries Inc.'s comments on the aforementioned Proposed Rule:

Docket number EC-2000-007
Cross-Media Electronic Reporting and Record Keeping Rule

Should any problem arise with the attached file, please contact the undersigned.

Sincerely,

Guy R, Martin, ing.
Director - Environment
Domtar, Inc

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EC-2000-007 - Domtar Industries Inc